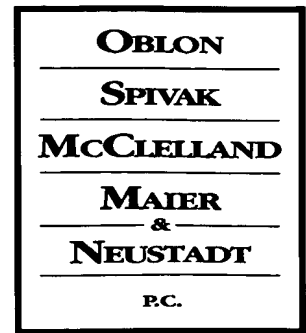




Docket No.: 245553US0CONT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

RE: Application Serial No.: 10/743,997
Applicants: Yukio NIHEI, et al.
Filing Date: December 24, 2003
For: ANTI-TUMOR AGENT
Group Art Unit: 1614
Examiner: Weddington, K.E.

SIR:


Attached hereto for filing are the following papers:

Response to Restriction Requirement

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Vincent K. Shier, Ph.D.
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DOCKET NO.: 245553US0CONT



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

RE APPLICATION OF:

:

Yukio NIHEI, et al.

: GROUP ART UNIT: 1614

SERIAL NO.: 10/743,997

:

FILED: DECEMBER 24, 2003

: EXAMINER: WEDDINGTON, K. E.

FOR: ANTI-TUMOR AGENT

RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313-1450

SIR:

Responsive to the Official Action dated September 3, 2004, Applicants elect, with traverse, Group I, Claims 1-15 and 29, for further prosecution.

REMARKS

The Office has required restriction in the present application as follows:

- Group I: Claims 1-15 and 29, drawn to an anti-tumor agent comprising one or more tubulin polymerization-inhibitory active substances having anti-tumor activity and one or more anti-inflammatory active substances; and
- Group II: Claims 16-28, drawn to a method for treatment of tumors with a composition comprising one or more tubulin polymerization-inhibitory active substances and one or more anti-inflammatory active substance.

Applicants elect, with traverse, Group I, Claims 1-15 and 29, for further prosecution.

Applicants traverse the Restriction Requirement on the grounds that the Examiner has not made out a proper case to support such a restriction between Groups I and II. In the Office Communication the Examiner merely states his conclusion, that the two inventions are